

**DW 05-122**

**PENNICHUCK EAST UTILITY, INC.**

**Petition for Authority to Engage in Business as a Public Utility in a Limited Area of the  
Town of Bow and for Approval of Rate Schedules**

**Order *Nisi* Approving Franchise Rights and Rate Schedules**

**ORDER NO. 24,597**

**March 3, 2006**

**I. BACKGROUND**

Pennichuck East Utility, Inc. (PEU) is a regulated utility pursuant to RSA 362:2 and RSA 362:4 and serves in excess of 4,600 customers in Atkinson, Bow, Derry, Hooksett, Litchfield, Londonderry, Pelham, Plaistow, Raymond, Sandown, and Windham, New Hampshire. The New Hampshire Public Utilities Commission (Commission) first authorized PEU to provide water service in 1998. See, *Consumers New Hampshire Water Company, Inc.*, 83 NH PUC 191 (1998).

On July 21, 2005, PEU filed a petition for establishment of a new franchise in the Town of Bow. The petition also seeks approval for rates to be charged in the new franchise area. The filing was accompanied by the testimony of Bernard J. Rousseau, Vice President of Pennichuck Water Service Corporation, an affiliate of PEU. On February 27, 2006, the Staff of the Commission (Staff) filed a letter recommending that PEU's petition be approved.

According to its petition, PEU has entered into an agreement with Stone Sled Farm, LLC, the developer of a new residential development known as Stone Sled Farm, to provide water service to 42 homes in the proposed franchise area in Bow. The franchise area consists of an approximately 54-acre parcel of land off Woodhill Hooksett Road. The franchise area is as depicted on Exhibit 1 of the petition, which consists of two full size plan sheets. Exhibit 1 also provides a metes and bounds

description of the franchise boundaries requested in this docket. The developer of Stone Sled Farms is required to provide a Well Head Protective Easement and other necessary easements at closing.

PEU has also advised the Board of Selectmen in Bow of its request for a franchise, and PEU filed a letter, dated May 3, 2005, indicating that the Town did not object but that the Town's concurrence was limited to the Stone Sled Farm development.

According to Staff's letter, the residential community and the water system are currently under construction. Once completed, PEU's agreement with the developer of Stone Sled Farm provides that PEU will pay \$400 per connection, or a total of \$16,800 for the water system. PEU also intends to invest in meters for the homes as well as a SCADA system for the pump station. PEU requested approval of its PEU-B rate to be applied to water service at Stone Sled Farm. Staff's letter indicates that it has reviewed the data supplied by PEU with respect to its investment in the system and its anticipated costs of operation and maintenance. Staff points out that with the issuance of Order No. 24,591 (February 24, 2006) in PEU's recent general rate case, DW 05-072, PEU's rates are now consolidated and that Stone Sled Farm customers will be charged the new PEU-A rate. This rate consists of a fixed monthly charge of \$15.58 and a volumetric charge of \$4.75 per 100 cubic feet. Staff further recommends that PEU bring the assets of the water system onto its books at full original cost, with Contributions in Aid of Construction (CIAC) recorded as appropriate so that PEU's books reflect only its net investment.

Staff has also advised the Commission that PEU has provided a letter from the New Hampshire Department of Environmental Services (DES), attached to its petition as Exhibit 3, which provides DES approval for the water supply for the proposed franchise area. Staff asserts that this letter fulfills the requirements as to the availability and suitability of water pursuant to RSA 374:22, III.

Staff stated that PEU had demonstrated it possesses the technical, financial, and managerial expertise to own and operate the Stone Sled Farm water system. Staff recommended that the Commission grant PEU's request for franchise authority to serve the Stone Sled Farm development and charge PEU's newly effective PEU-A rates to customers served by this new water system.

## **II. COMMISSION ANALYSIS**

Pursuant to RSA 374:22, "[n]o person or business entity shall commence business as a public utility within this state...without first having obtained the permission and approval of the commission." The Commission shall grant requests for franchise authority and allow an entity to engage in the business as a public utility when it finds, after due hearing, that the exercise of the right, privilege, or franchise is for the public good. *See* RSA 374:26. In determining whether a franchise is for the public good, the Commission assesses the managerial, technical and financial expertise of the petitioner. *See Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000). Pursuant to RSA 378:5 and RSA 374:7, the Commission is authorized to investigate whether rates, fares, charges or prices a utility proposes to put into force are just and reasonable. We apply these authorities to the case at hand.

We have reviewed PEU's Petition and Staff's recommendation in this docket and will grant the Petition. We agree with Staff that PEU possesses the managerial, technical, and financial expertise to operate the Stone Sled Farm franchise. PEU has been in the water utility business in New Hampshire since 1998 and has successfully operated water utilities in this state.

In assessing whether PEU possess the managerial, technical, and financial expertise to acquire and operate the Stone Sled Farm water system, we note that PEU has

provided the Commission with a letter from DES indicating the water system meets the suitability and availability requirements of RSA 374:22, III. PEU has also secured proper easements and access to the water system by the terms of the Agreement it entered into with the developer.

We note that PEU proposed to apply its PEU-B tariff rate, based on Attachment BJR-5 to Mr. Rousseau's testimony. Staff has pointed out that Order No. 24,591 (February 24, 2006) in Docket No. DW 05-072, eliminated the PEU-B rate and consolidated PEU's rate groups. Thus, the consolidated PEU rate now known as the PEU-A rate will be charged to customers in this new franchise. We have reviewed the documentation provided by PEU, as well as Staff's recommendation, and will approve use of this rate. PEU did not request a specific date by which to implement rates, and we will thus approve the rate on a service-rendered basis as of the effective date of this order as customers begin to take service.

Regarding PEU's investment that it will pay to acquire the water system, Staff recommends that PEU book the total original cost of the system and also book Contributions in Aid of Construction (CIAC) to the extent original cost exceeds PEU's actual cost. We agree that this is the appropriate accounting treatment of PEU's acquisition of the water system assets and will require that PEU book CIAC as appropriate. The Commission has a long-standing practice of disallowing recovery from ratepayers those amounts in excess of the amount paid for a system. Booking these costs as CIAC will ensure such costs are not reflected in future customer rates.

RSA 374:26 authorizes the Commission to grant requests for franchise authority without a hearing "when all interested parties are in agreement." Here, Staff and PEU are in

agreement that PEU should operate the Stone Sled Farm water system. Additionally the Town of Bow was notified of the petition and has no objection to it. Notwithstanding the agreement of Staff and PEU recommending that the Commission grant PEU's franchise request, we will approve the Petition on a *Nisi* basis in order to ensure that all interested parties receive notice of the proposal and an opportunity to request a hearing. For the reasons stated above, we find that PEU's acquisition of assets and request to provide water service to the Stone Sled Farm development is for the public good.

**Based upon the foregoing, it is hereby**

**ORDERED *NISI***, that PEU is authorized to operate as a public water utility in a limited area known as Stone Sled Farm located in Bow, New Hampshire; and it is

**FURTHER ORDERED**, that within 10 days of the completion of the sales transaction specified in the Agreement between PEU and the Developer, PEU will provide copies of the executed transfer documents to the Commission; and it is

**FURTHER ORDERED**, that PEU is granted authority, pursuant to RSA 378, to charge customers of the Stone Sled Farm water system the PEU-A tariff rates currently in effect, on a service-rendered basis, effective as of the date of this order, unless the Commission orders otherwise; and it is

**FURTHER ORDERED**, that the Petitioner shall cause a copy of this Order *Nisi* to be mailed to the Town Clerk in the Town of Bow and to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than March 13, 2006 and to be documented by affidavit filed with this office on or before April 3, 2006; and it is

**FURTHER ORDERED**, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than March 20, 2006 for the Commission's consideration; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than March 27, 2006; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective April 3, 2006, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

**FURTHER ORDERED**, that the Petitioner shall file a compliance tariff with the Commission on or before April 3, 2006, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this third day of March, 2006.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Clifton C. Below  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary